

APR 1 1978

MICHAEL BODAK, JR., CLERK

IN THE
Supreme Court of the United States

OCTOBER TERM, 1978

NO. **77-1400**

FRANK TANGORA, FRANK L. SESSOMS and
CATHERINE SESSOMS, Petitioners,

v.

STEVEN PETZ, HAMPTON GRANT, L. S. PATTON,
ANDREW J. MATIYAK, JACK MALONE, NORMAN
MOWAD and FRANK C. SERNA, Individually and
their official capacities of the Redevelopment
Authority of Beaver County, Beaver, PA
Respondents

**PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

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Appendix D (from the United States Court of Ap- peals for the third circuit the foregoing motion is (1) appellees' motion to deny and dismiss appeal on the grounds that the notice of appeal is untimely is granted; (2) appellants' "Motion Under Rule 46 (c) of Federal Rules of Appel- lant Procedure Disciplinary Power of the Court over Attorneys" to discipline Attorney Thomas C. Mannix for failure to file a notice of appear- ance, etc. is denied without prejudice.	8a

By the Court Circuit Judge Adams

Dated: January 3, 1978

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Dated: January 3, 1978

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Dated: January 18, 1978

Appendix G (order, and now, to-wit, this 1st day of December 1977, upon consideration of plaintiffs' motions to add indispensable party, to grant plaintiffs' untimely notice of appeal and to impose judgment against surety on a bond in the above captioned case, it is ordered that plaintiffs' motion be and the same are hereby denied for the reason that the instant case is presently on appeal before the Third Circuit Court of Appeals). 15a

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Authority of Beaver County, Beaver, PA
Respondents

**PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

Petitioners pray that a writ of certiorari issue
to review the judgment of the United States Court of
Appeals for the Third Circuit entered in the above case
on January 3, 1978.

OPINIONS BELOW

The memorandum opinion of the District Court
for the Western District of Pennsylvania, unreported
at Docket No. 77-2. The order of the Court of Appeals
for the Third Circuit issued on January 3, 1978,
printed in Appendix D hereto, unreported no opinion
filed.

*Questions Presented.***JURISDICTION**

The judgment and order of the Court of Appeals for the Third Circuit, printed in Appendix D hereto, was entered on January 3, 1978. The jurisdiction of this Court is invoked under 28 U.S.C. Sec. 1254 (1).

QUESTIONS PRESENTED

The questions presented are:

1. Whether the refusal of respondents, to grant the petitioners a fair notice or opportunity to protect their property, solely because of their race is prohibited:

A. Under the Civil Rights Act of 1866, enacted under the Thirteenth Amendment, or

B. Under the Civil Right Act of 1866 as re-enacted in 1870 under the Thirteenth and Fourteenth Amendments or

C. Under the terms of the Thirteenth and Fourteenth Amendments, aside from any Federal Statutes?

2. Whether the said discriminatory refusal, to grant the petitioners a fair notice or opportunity to protect their property is unlawful, regardless of the existence or degree of state involvement?

3. Whether the state has sufficiently involved itself in the said discriminatory refusal to grant the petitioners a fair notice or opportunity to protect their property:

Statutes and Constitutional Provisions Involved.

A. By its various intertwining acts with respondents, such as licensing, zoning, regulation and otherwise promoting and assisting the respondents' development, or

B. By its delegation of Local governmental function, community development to respondents, or

C. By a combination of these factors so as to make said refusal unlawful?

STATUTES AND CONSTITUTIONAL PROVISIONS INVOLVED

The statutes and constitutional provisions involved are:

The Civil Rights Act of 1866, Act of April 9, 1866, ch. 31, 14 Stat. 27 codified in Title 42, U.S.C. Secs. 1981 and 1982.

Sec. 1 of the Enforcement or Anti-Lynching or Ku Klux Klan Act of April 20, 1871, ch. 22, 17 Stat. 13 codified in Title 42, U.S.C. Sec. 1983.

Section 1 and 2 of the Thirteenth Amendment to the Constitution.

Section 1 and 5 of the Fourteenth Amendment to the Constitution.

Statement Under Rule 33 (2) (b).

STATEMENT UNDER RULE 33 (2) (b)

Since the Courts below draw into question the constitutionality of the Act of April 9, 1866, 14 Stat. 27, the Act of May 31, 1870, 16 Stat. 144, and the Act of April 20, 1871, 17 Stat. 13 as codified in Title 42, U.S.C. Secs. 1981, 1982 and 1983, Acts of Congress effecting the public interest, and neither the United States nor any agency, officer or employee thereof is a party, it is noted that 28 U.S.C. Sec. 2403 may be applicable.

No court of the United States as defined by 28 U.S.C. Sec. 451 has, pursuant to 28 U.S.C. Sec. 2403, certified to the Attorney General the fact that the constitutionality of such Acts of Congress have been drawn in question.

Statement.

STATEMENT

**This Case Was Filed in the Western District
of Pennsylvania**

Plaintiffs' filed AMENDED COMPLAINT under original jurisdiction over this action is conferred upon this court by 28 USCA * 2201 and 2202 relating to Declaratory Judgment and 28 USCA * 1331 (1970); ART. III * 2; ART. VI * 2; ART. * I sec. 8; 28 USCA 1343 (3) and (4) relating to actions arising out of 42 USCA sec. 1983, 42 USCA 1981, 42 USCA 8 1982, 42 USCA * 1985 (2-3), 42 USCA * 1988.

Parties: Frank L. Sessoms, is an American citizen, resides in the County of Beaver, lives in the state of Pennsylvania.

Parties; Frank Tangora, is an American citizen, resides in the County of Beaver, lives in the state of Pennsylvania.

Parties: Catherine Sessoms, is an American citizen, resides in the County of Beaver, lives in the state of Pennsylvania.

Defendants' Redevelopment Authority of Beaver County, Beaver, PA. They are legally responsible for the overall operation of the Redevelopment Authority of Beaver County.

Defendants' Steven Petz, is the Executive Director of the Redevelopment of Authority of Beaver County. He is legally responsible for the overall operation of the Redevelopment Authority of Beaver County.

Defendants' L. S. Patton is the Secretary of the Redevelopment Authority of Beaver County. He is legally

Statement.

responsible for the overall operation of the Redevelopment Authority of Beaver County.

Defendants' Jack Malone, is the Vice-Chairman of the Redevelopment Authority of Beaver County. He is legally responsible for the overall operation of the Redevelopment Authority of Beaver County.

Defendants' Norman Mowad, is the Assistant Secretary of the Redevelopment Authority of Beaver County. He is legally responsible for the overall operation of the Redevelopment Authority of Beaver County.

Defendants' Frank Serna, is the Treasurer of the Redevelopment Authority of Beaver County. He is legally responsible for the overall operation of the Redevelopment Authority of Beaver County.

Defendants' Andrew J. Matiyak, is the Assistant Treasurer of the Redevelopment Authority of Beaver County. He is legally responsible for the overall operation of the Redevelopment Authority of Beaver County.

Defendants' Hampton Grant, is the Chairman of the Redevelopment Authority of Beaver County. He is legally responsible for the overall operation of the Redevelopment Authority of Beaver County.

Defendants' Redevelopment Authority is sued in his official capacity. At all times mentioned in this complaint each defendants' acted under the color of Pennsylvania state law.

Each defendants' is sued individually and in his official capacity. At all times mentioned in this complaint each defendant acted under the color of state law.

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Parties Action

Plaintiffs' bring this action, pursuant to rules of Federal and Civil Procedure, on behalf of themselves. The persons comprising the parties action are so joined. There are questions of law and fact common to the parties. The claims of named plaintiffs' the parties have acted on the grounds generally applicable. Thereby making appropriate final *Injunctive Relief*.

The question of law and fact common to the members of the party action over any Question affecting only individually this parties is superior to other available methods for the fair and efficient adjudication of the controversy-prosecution of separate actions individual parties members would create a risk of inconsistent or varying adjudication and would establish incompatible standards for the defendants' in addition with, it would result in multipictous litigation with a consequent over burdening of judicial resource.

Facts

Defendants' acting in Concert and under color of state as members of the Redevelopment Authority of the County of Beaver, have conspired and agree amongst themselves to violate the legal, Civil and Human Rights of the plaintiffs' by causing them to be subjected to great and grievous mental anguish and cruel unusual punishment and violation of their rights under the First, Fourth, Fifth, Eighth, Ninth, Thirteenth and Fourteenth Amendments of the United States, and Article IV, thereof. More fully set forth in the following statement of fact.

Defendants' Redevelopment Authority of Beaver County/Steven Petz, et al. deprive plaintiffs' of their

Statement.

property rights and equal protection of the laws or equal privileges and immunities under title 28 USCA 1331 and title 42 USCA sec. 1983.

Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. deprive plaintiffs' of their rights to inherit, purchase, lease, sell, hold and convey real and personal property to be enjoyed by citizens in every state and territory under title 28 USCA * 1331 and title 42 USCA sec. 1982.

Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. acts' have deprived plaintiffs' of a right secured or protected by the Constitution or laws of the United States under the Fourteenth Amendment.

Defendants' willful failure to carry out their duty, obligation and responsibility and violate their oath of office to uphold the United States Constitution.

Defendants' Redevelopment Authority of Beaver County/Steven Petz, et al. deprived plaintiffs' of fair opportunity to protect their property under the Federal Constitution, this is not a trespass case but a cause of action for violation of their Constitutional rights in which the Federal District Court are quite competence to address itself to vindicate this cause of action before him.

If the State Court have a case against the same defendants' Redevelopment Authority for trespass, let the state court handle that issue but Plaintiffs' Frank L. Sessoms, Frank Tangora, and Catherine Sessoms are requesting this Honorable Trial Court to vindicate their civil rights under Federal statutes title 42 USCA *1981,

Statement.

1982, 1983, 1985 (2-3) and 1988 depriving them of their rights of notice and hearing concerning their property.

Plaintiffs' Frank L. Sessoms, Frank Tangora, and Catherine Sessoms own property at 122 Center Street in which their homes was erected until the Defendants' Redevelopment of Authority of Beaver County/Steven Petz, et. al. destroyed without notice of warning in violation of the Federal Constitution, this is a claim for vindication of civil rights not trespass.

The same exact thing happened to plaintiff Frank Tangora at property he owned at 107 Short Street, Aliquippa, PA in which his home was erected until the Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. destroyed without notice of warning in violation of the Federal Constitution, this is a claim for vindication of civil rights not trespassed.

Plaintiffs' are not sure that defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. intended on plaintiffs' Frank Tangora, Frank L. Sessoms and Catherine Sessoms being inside their homes when their properties were being destroyed or not.

The reason the Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. took plaintiffs' Frank L. Sessoms and Catherine Sessoms property was because they are black. The Defendants' took Frank Tangora property because he associated with plaintiffs; Frank L. Sessoms and Catherine Sessoms.

Plaintiffs' made weekly visits to their property keeping up the maintenance at least three times a week.

Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. were supposed to set up some

Statement.

type of meeting, officers or in the field to come out to meet plaintiffs' to discuss purchase of plaintiffs' property, this was not done.

Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. were suppose to follow Federal Guidelines concerning "Land Acquisition Procedure." The purpose of this notice is to tell plaintiffs' of Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. Acquisition procedures and the principal rights and options available to plaintiffs'.

A. If your entire property is needed, you will receive its current Fair Market Value. If only a portion of your property is needed, you will receive as damages the difference between the value of the part remaining.

B. We will present you with a written offer for your property; this is done to prevent any misunderstanding.

C. If you are not satisfied that the offer reflects "Just Compensation", and if you can provide factual information concerning value or damages that was not available to the appraisers, we will gladly review the appraisals in order to make sure you are treated fairly.

D. If you believe that the offer does not represent the true value of your property, you may refuse to accept it. When an agreement cannot be reached, the Authority will file a "Condemnation Proceeding" (Declaration of taking against the property, depositing in the Court the full amount of the Authority estimate of just compensation.

E. In addition to the Fair Market Value for your property, you are entitled to the following other bene-

Statement.

fits; (a) We will pay its pro rata share of real estate taxes paid by you, (b) You are entitled to reimbursement of moving expenses and relocation benefits which are explained in "Relocation Information for Families and Individuals.

F. You may be entitled to a Business Dislocation Payment if it can be established that your type of business cannot be relocated without a substantial loss of existing patronage. (See booklet "Relocation Information for Businesses.)

G. Every effort will be made to provide ample time for you to relocate before development begins. In no event will you be moved without at least a 90 days written notice.

H. Should you or your tenant wish to rent the property for a period subject to determination by the Authority on short notice, we will establish the rent according to Federal Guidelines.

The above seven rules which rooted from Federal Guidelines concerning development were totally disregarded by the Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. in depriving plaintiffs' of their property without notice or of a fair opportunity to protect their property, in violation of the Fourteenth Amendment of the Federal Constitution.

In fact the Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. instructed the plaintiffs' that their homes were not going to be destroyed and not included in the Redevelopment Authority development is up meaning apartment complexes and the plaintiffs' homes have disappeared, the Defendants'

Statement.

Redevelopment Authority of Beaver County/Steven Petz, et. al. must have needed them after all.

The Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. paid all other parties that came within the scope of development of Valley Terrace Apartment Complex.

Plaintiffs' had valuable articles in their homes, such as antique china, antique furniture, antique lamps and coins of Indian head pennies, etc.

Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. policies and practices are forbidden and Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. acted beyond their authority and jurisdiction by their unlawful and illegal acts.

There has been a Tort committed do to the lack of care, duty and responsible by the Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. also a Nuisance committed.

It is the duty of every person to make a reasonable use of his or her own property so as to occasion no unnecessary damage or annoyance to his or her neighbor.

There is no Exhaust of State Remedies under title 42 USCA * 1983 requirement; State court cannot vindicate Constitutional Rights under these Federal Statutes involved in this case, Congress enacted legislation so that plaintiffs' could choose what forum they wanted to pursue their vindication of civil rights.

As the Supreme Court stated in a landmark case in *Bivens v. Six Unknown Federal Officers*: the court in *Bivens* was concerned with the inadequacy of available

Statement.

remedies for "invasions of personal interests in liberty by federal officials, the court observed that the available state remedies of trespass and invasion of privacy may be inconsistent or even hostile to the interests protected by the Fourth Amendment of the Federal Constitution."

Plaintiffs' has stated cause of action for a violation of the Fourteenth Amendment to the Constitution of the United States.

Plaintiffs' are not attorneys' esquires, just plain ordinary people who want equal protection and equal justice under the law.

Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. have put the plaintiffs' through so much mental anguish and pain, suffering, attorneys fees, out of the pocket expense and shame.

Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. assert a claim that a American Demolition Company was acting out of permission from the defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. the power delegated by a principal to his agent, control ever or jurisdiction.

Legal Claims

The facts related above disclose a concerted and systematic efforts by Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. and their agents to deprive plaintiffs of constitutionally secured rights, including, but not limited to, those enumerated in the succeeding paragraphs.

*Statement.***First Cause of Action**

Plaintiffs' have been deprived of their rights under Article I, of the Federal Constitution, by Defendants Redevelopment Authority of Beaver County/Steven Petz, et. al. conspiring under the color of state law to deprive plaintiffs' of their right to enjoy property without unlawful deprivation.

Second Cause of Action

Plaintiffs' have been deprived of their rights under Articles IV, of the Federal Constitution, by Defendant Redevelopment Authority of Beaver County/Steven Petz, et. al. conspiring under the color of state law to deprive plaintiffs' of their rights to enjoy property without unlawful deprivation.

Third Cause of Action

Plaintiffs' have been deprived of their rights under Article V, of the Federal Constitution, by Defendants Redevelopment Authority of Beaver County/Steven Petz, et. al. conspiring under the color of state law to deprive plaintiffs' of their rights to enjoy property without unlawful deprivation.

Fourth Cause of Action

Plaintiffs have been deprived of their rights under Article VIII, of the Federal Constitution, by Defendants Redevelopment Authority of Beaver County/Steven Petz, et. al. conspiring under the color of state law to deprive plaintiffs' of their rights to enjoy property without unlawful deprivation.

*Statement.***Fifth Cause of Action**

Plaintiffs' have been deprived of their rights under Article IX, of the Federal Constitution, by Defendants Redevelopment Authority of Beaver County/Steven Petz, et. al. conspiring under the color of state law to deprive plaintiffs' of their rights to enjoy property without unlawful deprivation.

Sixth Cause of Action

Plaintiffs have been deprived of their rights under Article X, of the Federal Constitution, by Defendants Redevelopment Authority of Beaver County/Steven Petz, et. al. conspiring under the color of state law to deprive plaintiffs' of their right to enjoy property without unlawful deprivation.

Seventh Cause of Action

Plaintiffs' have been deprived of their rights under Article XIV, section I * section V of the Federal Constitution by Defendants' Redevelopment Authority of Beaver County/Steven Petz, et al. conspiring under the color of state law to deprive plaintiffs' of their rights to enjoy property without unlawful deprivation.

The acts, conducts and behavior of Defendants Redevelopment Authority of Beaver County/Steven Petz, et. al. each of them were performed knowing, intentionally, maliciously and wantonly.

*Statement.***RELIEF**

Wherefore, plaintiffs' respectfully prays that this court enter a judgment granting them:

A. A declaratory judgment that Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. acts, policies and practices described herein violate plaintiffs' rights under the Article XIII and Article XIV of the Federal Constitution, also were unwarranted, unlawful, illegal, arbitrarily and capriciously.

B. A preliminary and permanent injunction which:

A. Temporary restraining order that restrained Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. from (a) denying equal protection of the Law, Article XIV of the Federal Constitution, (b) denying due process of law under the Article XIV sec. I sec. V of the Federal Constitution.

C. Prohibits Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. their agents, employees, successors interest and all other persons in active concert or participation with them from harrasing, threatening, punishing or retaliating in anyway against the plaintiffs' because they filed this action or against any other persons.

D. Plaintiffs' because of the gravity of the actual and threatened harm to them arising from the actual and threatened enforcement by Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. said regulation and banning orders promulgated thereunder request a speedy and advancement of the cause on this Court pursuant to Rule 57 of the Federal Rules of Civil Procedure.

Statement.

Compensatory Damages from all Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. in the amount of \$14 million dollars and cents to each plaintiff separately Frank Tangora, Frank L. Sessoms, and Catherine Sessoms.

Punitive Damages from all Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. in the amount of \$14 million dollars and cents to each plaintiff separately Frank Tangora, Frank L. Sessoms, and Catherine Sessoms.

Attorney fees for all plaintiffs' reasonable as the court feels that fair.

Trial by jury on all issues triable by jury.

Such other and further relief as this court may deem just, proper, and equitable.

March 1, 1978

Respectfully Submitted

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Aliquippa, PA 15001

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DECISIONS OF THE COURT BELOW

The District Court for the Western District of Pennsylvania, dismissed the action on his own motion without ruling on the merits. There were forty-nine motions filed by both parties combined. The United States Supreme Court has ruled numerous times that trial court can't dismiss the action for Lack of Jurisdiction without ruling on the merits; see; *Bell v. Hood*, *Biven v. Six Unknown Federal Narcotic Agents*; U. S. Supreme cases, the petitioners' filed a notice of appeal to the THIRD CIRCUIT COURT OF APPEALS the respondents filed a motion to dismiss and deny the appeal, the district court denied it, the petitioners' also filed motion under rule 61 of the Federal Rule of Civil Procedure "Harmless Error" the district court denied because the case was on appeal to the Third Circuit. The United States Court of Appeals for the Third Circuit deny the petitioners' appeal in violation of the local rule of the court and the Federal Rules of Appellate Procedure 27(C), reads as follows; Power of a single Judge to Entertain Motions. In addition to the authority expressly conferred by these rules or by law, a single judge of a court of appeals may entertain and may grant or deny any request for relief which under these rules may properly be sought by motion, except that a single judge may not dismiss or otherwise determine an appeal or other proceeding, and except that a court of appeals may provide by order or rule that any motion or class of motions must be acted upon by the court. The action of a single judge may be reviewed by the court. The petitioners filed two Writ of Mandamus in the Court of Appeals for the Third Circuit, to have the Circuit Court to supervise the trial court abuse of discretion, but the petitioners efforts were futile. The Circuit Court allow the respondents at-

torney to file his appearance in violation of rule 46(C) of the Federal Rule of Appellate Procedure, due to the fact that the respondent's attorney failed to file his appearance in the Western District of Pennsylvania.

REASONS FOR GRANTING THE WRIT

I. The Complaint States a cause of Action Upon Which Relief Can Be Granted.

A. It would violate Article III & 2 of the United States Constitution to fail to provide a federal judicial forum for the resolution of serious constitutional claims. Support for this proposition is found in *Bell v. Hood*, 327 U.S. 678, 66 S. Ct. 773, 90 L. Ed. 939, 13 A.L.R. 2d 383; *Oestereich v. Selective Service System*, 393 U.S. 233 (1969); 2 *Bivens v. Six Unknown Federal Narcotic Agents*; supra; *Panzarella v. Boyle*, 406 F. Supp. 787 (D.R.I. 1975).

B. To the extent that the rights the plaintiff's are asserting are peculiar to plaintiff's claims, the \$10,000 jurisdictional amount constitutes an arbitrary monetary hurdle to access to the court in violation of the principles of the equal protection clause, as embodied in the due process clause of the Fifth Amendment of the United States Constitution. Support for this argument can be found in *Rosado v. Wyman*, 304 F. Supp. 1356 E.D. N.Y. (1969) rev'd on other grounds. 397 U.S. 397 (1970).

C. The Defendants' Redevelopment Authority of Beaver County, Beaver, PA/Steven Petz, et. al. individually and in their official capacities is a "person" within the ambit of the Civil Rights Act.

1983, CIVIL ACTION FOR DEPRIVATION OF RIGHTS

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

In particular, courts have held the local government is a "person" subject to liability under the Civil Rights Act.

3 *Dahl v. Palo Alto* (1974, D.C. Cal.) 372 F. Supp. 647; *Maybanks v. Ingraham* (1974 D.C. PA. 378 F. Supp. 913; *Skeham v. Board of Trustees* (1973) CA # PA) 501 F. 2d 31 *Moor v. County of Alameda* (1973) 411 U.S. 693, 36 L.ED. 2d 596, 93 S. CT. 1785 REH DEN 412 U.S. 963, 37 L. ED. 2d.

D. Defendants' Redevelopment Authority of Beaver County/Steven Petz, et. al. denied plaintiffs' rights, privileges and immunities under the United States Constitution.

See: *Murray v. Murphy*, 441 F. Supp. 120 (1977).

See: *Pan American World Airways, Inc. v. Marshall*, 439 F. Supp. 487 (1977).

See: *Penthouse International, LTD. v. McCauliffe*, 436 F. Supp. 1241 (1977).

See: *Intern. Ass'n of Firefighters, Etc. v. City of Sylacvauga*, 436 F. Supp. 482 (1977).

See: *Riley v. City of Minneapolis*, 436 F. Supp. 954 (1977); *South Park Square Ltd. v. City of Jackson, Miss.* 565 F. 2d 338 (1977); *Brown v. Bathke*, 566 F. 2d 588 (1977); *Piercy v. Heyison*, 565 854 (1977); *Duchesne v. Sugarman*, 566 F. 2d 817 (1977); *Bishop v. Wood*, 426 U.S. 341 96 S. Ct. 2074, 48 L. ED. 2d. 684 (1976).

The Fourteenth Amendment to the United States Constitution provides:

All persons born or naturalized in the United States, and subject to jurisdiction thereof, are citizens of the United States and of the States wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States nor shall any state deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Reasons For Granting The Writ.

II. The Court Subject Matter Jurisdiction Under 42 USCA * 1983 Pro se plaintiffs' cites jurisdiction under the Civil Right Act, 42 USCA sec. 1983; 42 USCA * 1985 (2-3) with its companion jurisdiction basis under 28 USCA * 1343 (3) (4). The complaint cites fundamental constitution violations, First, Fourth, Fifth, Eighth, Ninth, Tenth, Thirteenth and Fourteenth Amendment. Defendants Redevelopment Authority of Beaver County/Steven Petz, et. al. conspires to deny plaintiffs Frank L. Sessoms, Frank Tangora, and Catherine Sessoms pro se within its jurisdiction the equal protection of the laws, by depriving plaintiffs' pro se of their property rights.

SECTION 1981 DEALS WITH EQUAL RIGHTS UNDER THE LAW

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses and exactions of every kind, and to no other.

SECTION 1982 PROPERTY RIGHTS OF CITIZENS

All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold and convey real and personal property.

See: *Tillman v. Wheaton-Haven Recreation Ass'n. Inc.*, 410 U.S. 431, 93 S. CT. 1090, 35 L. ED. 2d. 403

Reasons For Granting The Writ.

(1973); *Sullivan v. Little Hunting Park*, 396 U.S. 229, 90 S. CT. 400 24 L. ED. 2d. 386 (1969); *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409 88 S. CT. 2186, 20; *Young v. I.T. & T. Co.*, 438 F. 2d. 757 (3d Cir) (1971); *Arnold v. Tiffany*, 359 F. Supp. 1034 (C.D. CAL. 1973), aff'd 487 F. 2d. 216 (9th Cir) cert. denied. 415 U.S. 984, 94 S. CT. 1578, 39 L. ED. 2d. 881 (1974); *Lynch v. Household Finance Corp.*, (1972) 405 U.S. 538, 31 L. ED. 2d. 424, 92 S. CT. 1113 reh den 406 U.S. 911, 31; *Gibson v. Berry Hill*, (1973) 411 U.S. 564, 36 L. ED. 2d. 488, 93 S. CT. 1689; *Torres v. First State Bank* (1977, CA. 10) N.M. 550 F. 2d. 1255; *Hotel COAMO Springs Inc. v. Hernandez Colon* (1976 D.D. Puerto Rico) 426 F. Supp 664; *Drain v. Friedman*, (1976 D.C. Ohio) 422 F. Supp. 366. *Anderson v. Haas*, 341 F. 2d 497 (3 Cir. 1965).

Pro se complaint, according to the United States Supreme Court are held to less Stringent Standards than formal pleadings drafted by lawyers, and regardless of who represents the plaintiffs a motion to dismiss is not to be granted unless it appears beyond doubt the plaintiffs' can prove no set of facts in support of their claims which would entitle them to relief.

It has often been repeated that complaints under the Civil Rights Acts are to be liberally construed. "*Corby v. Conboy*" (1972) CA 2 N.Y. 457 F. 2d. 251.

Hainess v. Kerner, (1972) 404 U.S. 519, 30 L. ED, 2d. 652, 92 S. CT. 594, 596, reh den. 406 U.S. 948, 30 L. ED. 2d. 819 92 S. CT. 963 *Robert v. Acres*, (1974) CA & 7 ILL.) 495 F. 2d. 57; *Anderson v. Haas*, 341 F. 2d 497 (3 Cir. 1965).

III. Plaintiffs' have Invoked Proper Venue

Plaintiffs' pro se filed complaint in the United States District Court for the Western District of Pennsylvania.

That there are potential state remedies available to plaintiffs is not a sufficient ground for dismissal of this action. Relief under section 1983 is not inappropriate even where relevant state remedies are available, but not pursued.

Wage v. Murray, (1976, CA 9 Wash) 564 F 2d. 1329.

Hupart v. Board of Higher Education, (1976 D.C. N.Y. 420 F. Supp. 1087).

Pettit v. Gingerich, (1977, D.C. M.D.) 427 F. Supp 282.

Lasco v. Koch, (1977) D.C. ILL.) 428 F. Supp 468
41 USC * 1988 Proceeding in Vindication of Civil Rights.

The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of this chapter and Title 18, for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the state wherein the court is having jurisdiction of such civil or criminal cause is held so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and

govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment of the party found guilty.

See the following cases:

Fox v. Castle, 441 F. Supp 411 (1977).

Swiggett v. Watson, 441 F. Supp 254 (1977).

Krier v. Amodio, 441 F. Supp 181 (1977).

Dawson v. Patrick, 441 F. Supp. 133 (1977).

Spears v. Conlisk, 440 F. Supp. 490 (1977).

Bagby v. Beal, 439 F. Supp 1257 (1977).

Miller v. Vitak, (437 F. Supp 569) (1977)

White v. Califano, (437 F. Supp 543) (1977).

Paige v. Gray, 437 F. Supp 137 (1977).

*Conclusion.***CONCLUSION**

Has the petitioners' a right to the Writ of Certiorari?

If they have a right and that right has been violated, do the laws of this country afford them a remedy? The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he or she receives an injury. Where the heads of departments are the political or confidential agents of the executive, merely to execute the will of the president, or rather to act in cases in which the executive possesses a constitutional or legal discretion, nothing can be more perfectly clear than that their acts are politically examinable. But, where a specific duty is assigned by law, and individual rights depend upon the performance of that duty, it seems equally clear the individual who considers himself injured, has a right to the laws of their country for a remedy.

Are they entitled to the remedy for which they apply for the District Court Judgment be vacated and reversed. *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 1803.

Conclusion.

For the foregoing reasons this Writ of Certiorari should be granted.

Respectfully submitted,

FRANK TANGORA, PRO SE
145 Spring Hill Road
Aliquippa, Penna. 15001

FRANK L. SESSOMS, PRO SE
1461 Green Street
Aliquippa, Penna. 15001

CATHERINE SESSOMS, PRO SE
1461 Green Street
Aliquippa, Penna. 15001

March 28, 1978

*Entry of Appearance.***ENTRY OF APPEARANCE**

The clerk will enter my appearance FRANK TANGORA, FRANK L. SESSOMS and CATHERINE SESSOMS for the Petitioners.

FRANK TANGORA, PRO SE
145 Spring Hill Road
Aliquippa, Penna. 15001

FRANK L. SESSOMS, PRO SE
1461 Green Street
Aliquippa, Penna. 15001

CATHERINE SESSOMS, PRO SE
1461 Green Street
Aliquippa, Penna. 15001

*Proof of Service.***PROOF OF SERVICE**

40 copies of the petition for WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT, was served on the Clerk of Courts for the Supreme Court of the United States, Washington, D. C.

4 copies were served on THOMAS F. QUINN, Clerk for the United States Court of Appeals, for the Third Circuit, 21400 United States Courthouse Independence Mall West, 601 Market Street, Philadelphia, Penna. 19106

2 copies were served on JACK L. WAGNER, Clerk for the Western District of Pennsylvania, Pittsburgh, Penna.

2 copies were served on THOMAS C. MANNIX, ESQ. Counsel of Record for the Respondents", Beaver Falls, Penna. 15010.

2 copies served upon the Solicitor General, Department of Justice, Washington, D. C. 20530.

APRIL 1, 1978

No.

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1978

FRANK TANGORA, FRANK L. SESSOMS and
CATHERINE SESSOMS, Petitioners'

v.

STEVEN PETZ, HAMPTON GRANT, L. S. PATTON, ANDREW J. MATIYAK, JACK MALONE, NORMAN MOWAD, and FRANK C. SERNA, individually and in their official capacities of the Redevelopment Authority of the County of Beaver, Beaver, Pennsylvania, Respondents

Proof of Service.

Commonwealth of Pennsylvania }
 County of Beaver } ss.:

I, Frank Tangora, being duly sworn and deposes and says; That I withdrawn from the case, do to the fact that at the hearing on March 7, 1978, where the Trial Court Honorable Hubert I. Teitelbaum instructed me not to proceed any further, rather threatened me that if I did he would incure costs against me for trying to vindicate my civil rights for the unlawful deprivation of my property without fair opportunity to protect it under the Federal Constitution, I always thought I was protected by the First Amendment to the United States Constitution stating that: Congress shall make no law respecting, an establishment of religious, or prohibiting the free exercise thereof; or abridging the freedoms of speech, or the right of the people peaceably to assemble, and to *petition the government for redress of grievances.*

MR. FRANK TANGORA,
 145 Spring Hill
 Aliquippa, Penna. 15001

Subscribed and sworn to before me this 31st day of March, 1978.

.....
 Notary Public

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

FRANK TANGORA and FRANK L.
 SESSOMS, and CATHERINE SESSOMS,
 his wife,
 Plaintiffs,

v.

STEVEN PETZ, HAMPTON GRANT,
 L. S. PATTON, ANDREW J. MATIYAK,
 JACK MALONE and NORMAN MOWAD,
 Defendants.

CIVIL ACTION
 No. 77-2

Memorandum and Order

This rather unusual case is brought by plaintiffs, proceeding *pro se*, under various provisions of the Constitution of the United States, and, particularly, 42 U.S.C. §§1983 and 1985.

Plaintiffs are apparently the owners of separate properties located in Aliquippa, Pennsylvania. They allege that these properties were destroyed by or on behalf of defendants, officers of the Beaver County Redevelopment Authority, in May, 1972, without prior notice or hearing and without compensation of any kind. They seek a wide range of legal and equitable relief, including damages in what appears to be the total amount of \$84,000,000.00. They have flooded the Court with a stream of motions and assorted documents, some less than entirely clear, but all clearly indicative of a determined intent to obtain a remedy for what they obviously

Appendix A.

view as an egregious wrong allegedly visited upon them by defendants.

We express no view as to the merits of this dispute. Rather, upon consideration of a motion filed by defendants pursuant to F.R.Civ.P. 12(b), we will dismiss the present action for failure to state a claim under 42 U.S.C. §1983.

Under the Pennsylvania Constitution, Article I, Section 10, private property cannot be taken for public use without just compensation. By enactment of the Eminent Domain Code of 1964, 26 P.S. §1-101 *et seq.*, the Commonwealth has established a full statutory procedure to protect the rights that the Pennsylvania Constitution guarantees to property owners. Plaintiffs herein do not assert that they have been denied an opportunity to press their claims in the state court; there is no reason to believe that the Commonwealth would accord anything less than complete Constitutional protection to plaintiffs' property rights. Thus, if any "taking" did occur in this case, compensation is fully available to plaintiffs under the Constitution and Laws of the Commonwealth of Pennsylvania. Accordingly, plaintiffs have failed to allege deprivation of any federal constitutional right. See *Kao v. Red Lion Municipal Authority*, 381 F.Supp. 1163 (M.D. Pa. 1974). See also *Elterich v. City of Sea Isle City*, 477 F.2d 284 (3d Cir. 1973).

On the foregoing basis, defendants' motion to dismiss the above-captioned action will be granted by appropriate Order. Plaintiffs are of course perfectly free to pursue their claims in the state court.

HUBERT I. TEITELBAUM
Hubert I. Teitelbaum,
United States District Judge

Order.

Order

AND NOW, to-wit, this 5th day of August, 1977, in accordance with the foregoing Memorandum of decision in the above-captioned case, IT IS ORDERED that defendants' motion to dismiss be and the same is hereby granted and the above action is hereby dismissed.

HUBERT I. TEITELBAUM
Hubert I. Teitelbaum,
United States District Judge

copies to:

Frank Tangora
145 Spring Hill Road
Aliquippa, PA 15009

Frank L. Sessoms
1461 Green Street
Aliquippa, PA 15001

Thomas Mannix, Esquire
Whitmore & Mannix
Federal Title and Trust Building
Beaver Falls, PA 15010

*Appendix B.***APPENDIX B**

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

FRANK TANGORA and FRANK L.
SESSOMS, and CATHERINE SESSOMS,
his wife,
Plaintiffs,

v.

STEVEN PETZ, HAMPTON GRANT,
L. S. PATTON, ANDREW J. MATIYAK,
JACK MALONE and NORMAN MOWAD,
Defendants.

CIVIL ACTION
No. 77-2

Order

AND NOW, to-wit, this 15th day of September, 1977, upon consideration of plaintiffs' motion to reconsider this Court's Order of August 5, 1977 dismissing their action in the above-captioned case and in the alternative a motion for leave to take an interlocutory appeal, IT IS ORDERED that said motion to reconsider be and the same is hereby denied.

IT IS FURTHER ORDERED that said motion for leave to appeal be and the same is hereby denied for the

Appendix B.

reason that dismissal of the action and complaint is a final appealable order. Moore's Federal Practice, §12.14, Vol. 2A.

HUBERT I. TETTELBAUM
Hubert I. Teitelbaum,
United States District Judge

copies to:

Frank Tangora
145 Spring Hill Road
Aliquippa, PA 15009

Frank L. Sessoms, Catherine Sessoms
1461 Green Street
Aliquippa, PA 15001

Whitmire & Mannix
Beaver Falls, PA 15010

Appendix C.

APPENDIX C

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

FRANK TANGORA, FRANK L.
SESSOMS and CATHERINE SESSOMS,
Petitioners,

v.

STEVEN PETZ, HAMPTON GRANT,
L. S. PATTON, ANDREW J. MATIYAK,
JACK L. MALONE and NORMAN MOWAD,
Defendants.

CIVIL ACTION
No. 77-2

Order

The above-captioned case was brought by plaintiffs, proceeding *pro se*, under various provisions of the Constitution of the United States, and, particularly, 42 U.S.C. §§1983 and 1985. Plaintiffs alleged that their properties were destroyed by or on behalf of defendants, officers of the Beaver County Redevelopment Authority, in May 1972, without prior notice or hearing and without compensation of any kind. This Court rendered an Opinion granting defendants' motion to dismiss on August 5, 1977. Plaintiffs have now filed a motion to vacate or amend the August 5, 1977 judgment.

Plaintiffs, however, have failed to allege deprivation of any federal constitutional right. See *Kao v. Red Lion Municipal Authority*, 381 F.Supp. 1163 (M.D. Pa.

Appendix C.

1974); *Elterich v. City of Sea Isle City*, 477 F.2d 284 (3d Cir. 1973).

Accordingly, IT IS ORDERED that plaintiffs' motion to vacate or amend the August 5, 1977 judgment be and the same is hereby denied.

HUBERT I. TEITELBAUM
Hubert I. Teitelbaum,
United States District Judge

October 11, 1977

copies to:

Frank Tangora
145 Spring Hill Road
Aliquippa, PA 15009

Frank L. Sessoms, Catherine Sessoms
1461 Green Street
Aliquippa, PA 15001

Whitmire & Mannix
Beaver Falls, PA 15010

Appendix D.

APPENDIX D

OFFICE OF THE CLERK
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

21400 United States Courthouse
Independence Mall West

THOMAS F. QUINN 601 Market Street Telephone
Clerk Philadelphia 19106 215-597-2995

January 3, 1978

Mr. Frank Tangora
145 Spring Hill Road
Aliquippa, Pa. 15001

Mr. Frank L. Sessoms
Ms. Catherine Sessoms
1461 Green Street
Aliquippa, Pa. 15001

Thomas C. Mannix, Esquire
Whitmire & Mannix
Federal Title & Trust Building
Beaver Falls, Pa. 15010

Re: Frank Tangora, et. al., Appellants vs. Steven
Petz, et. al.

No. 77-2580

Gentlemen:

Enclosed herewith is copy of order entered by the
Court today in the above-entitled case which reads as
follows:

Appendix D.

"The foregoing motion is

1. Appellees' motion to deny and dismiss appeal on the ground that the notice of appeal is untimely is granted.
2. Appellants' motion to discipline Thomas C. Mannix is denied without prejudice."

Very truly yours,

T. F. QUINN, Clerk

MEF:dn
Enclosure

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT
No. 77-2580

December 23, 1977

FRANK TANGORA, Individually, FRANK L. SESSOMS,
CATHERINE SESSOMS, Appellants
vs.

STEVEN PETZ, individually and in his official capacity.
HAMPTON GRANT, individually, and in his official capacity.
L. S. PATTON, individually, and in his official capacity.
ANDREW J. MATIYAK, individually, and in his official capacity.
FRANK C. SERNA, individually, and in his official capacity.
JACK MALONE, individually, and in his official capacity.
NORMAN MOWAD, individually, and in his official capacity,
in their official capacities as members of the Redevelopment Authority of the County of Beaver, Pennsylvania

(D. C. Civil No. 77-2)

Appendix D.

Present: ADAMS, GIBBONS and GARTH, Circuit Judges.

1. Appellees' motion to deny and dismiss appeal on the ground that the Notice of Appeal is untimely,
2. Appellants' "Motion under Rule 46(C) of Federal Rules of Appellant Procedure Disciplinary Power of the Court over Attorneys" to discipline Attorney Thomas C. Mannix for failure to file a notice of appearance, etc.,

in the above listed for Tuesday, January 3, 1978, or as the Court decides.

Respectfully,

T. F. QUINN,
Clerk

enc.
fm

The foregoing Motion is/are

1. Appellees' motion to deny and dismiss appeal on the ground that the Notice of Appeal is untimely is granted.
2. Appellants' motion to discipline Thomas C. Mannix is denied without prejudice.

By the Court,

ARLIN M. ADAMS,
Judge

Dated: January 3, 1978

*Appendix E.***APPENDIX E**

OFFICE OF THE CLERK
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

21400 United States Courthouse
Independence Mall West
601 Market Street
Philadelphia 19106

THOMAS F. QUINN
Clerk

Telephone
215-597-2995

January 3, 1978

Re: Frank Tangora, et. al., Petitioners vs. Honorable
Hubert I. Teitelbaum, etc., Respondent

No. 77-2616

Gentlemen:

Enclosed herewith is conformed copy of order entered by the Court today in the above-entitled case.

Very truly yours,

T. F. QUINN, *Clerk*

MEF:dn
Enclosure
Copies to all parties

*Appendix E.*UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

December 27, 1977

No. 77-2616

FRANK TANGORA and FRANK L. SESSOMS,
Petitioners

vs.

HONORABLE HUBERT I. TEITELBAUM, Judge of the United
States District Court for the Western District of Penn-
sylvania,

Respondent

Present: ADAMS, GIBBONS, and GARTH, Circuit Judges.

Petition for a Writ of Prohibition and/or a
Writ of Mandamus

in the above-entitled case.

Respectfully,

T. F. QUINN,
*Clerk*nj
enc.

The foregoing Motion is denied.

By the Court,

ARLIN M. ADAMS,
Judge

Dated: January 3, 1978

*Appendix F.***APPENDIX F**OFFICE OF THE CLERK
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT21400 United States Courthouse
Independence Mall West
601 Market Street
Philadelphia 19106THOMAS F. QUINN
*Clerk*Telephone
215-597-2995

January 18, 1978

Re: Frank Tangora, et. al., Petitioners, vs. Honorable
Hubert I. Teitelbaum, etc., Respondent

No. 77-2616

Gentlemen:

Enclosed herewith is conformed copy of order en-
tered by the Court today in the above-entitled case.

Very truly yours,

T. F. QUINN, *Clerk*dpm
Enclosure
Copies to all Parties

Appendix F.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 77-2616

FRANK TANGORA and FRANK L. SESSOMS,
Petitioners

vs.

HONORABLE HUBERT I. TEITELBAUM, Judge of the United
States District Court for the Western District of Penn-
sylvania

Respondent

Present: ADAMS, GIBBONS and GARTH, Circuit Judges.
Amended Petition for Writ of Prohibition and/or
Writ of Mandamus.

The foregoing Petition is denied.

By the Court,

ARLIN M. ADAMS,
Judge

Dated: January 18, 1978

Appendix G.

APPENDIX G

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

FRANK TANGORA, FRANK L.
SESSOMS, and CATHERINE SESSOMS,
Plaintiffs,

v.

STEVEN PETZ, HAMPTON GRANT,
L. S. PATTON, ANDREW J. MATIYAK,
JACK L. MALONE and NORMAN MOWAD,
Defendants.

CIVIL ACTION
No. 77-2

Order

AND NOW, to-wit, this 1st day of December, 1977,
upon consideration of plaintiffs' motions to add an in-
dispensable party, to grant plaintiffs' untimely notice of
appeal and to impose judgment against surety on a bond

Appendix G.

in the above-captioned case, IT IS ORDERED that plaintiffs' motions be and the same are hereby denied for the reason that the instant case is presently on appeal before the Third Circuit Court of Appeals.

HUBERT I. TEITELBAUM
Hubert I. Teitelbaum,
United States District Judge

copies to:

Frank Tangora
145 Spring Hill Road
Aliquippa, PA 15001

Frank Sessoms and
Catherine Sessoms
1461 Green Street
Aliquippa, PA 15001

Whitmire & Mannix
Beaver Falls, PA 15010
